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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,208	07/18/2003	Timothy J. Brookins	M61.12-0261	2851

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EXAMINER
NGUYEN, THUY-VI THI

ART UNIT	PAPER NUMBER
3689	

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10/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<table>
<tr><td rowspan="3">Office Action Summary</td><td>Application No.</td><td>Applicant(s)</td></tr>
<tr><td>10/623,208</td><td>BROOKINS, TIMOTHY J.</td></tr>
<tr><td>Examiner</td><td>Art Unit</td></tr>
<tr><td></td><td>THUY VI NGUYEN</td><td>3689</td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>07 July 2008</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-10</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-10</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>10/21/08</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the applicant's communication filed on July 07, 2008, wherein:

Claims 1-10 are currently pending;

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because "data structure' in the claimed invention is not statutory. The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions". The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993). Data structure as recites in the claim limitation "*a first identifier relative to a logical group identification, and a second identifier relative to a logical transaction identification*" is not appeared to be data structure as defined above. Therefore, the "data structure" in the claim is not statutory.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by

LEYMANN ET AL (US Patent 6,009,405).

Regarding claim 1, LEYMANN ET AL disclose a method of generating a

computer implemented business process, comprising:

passing a logical transaction context to an activity factory to instantiate a

business activity with the logical transaction context {see col. 7, lines 59-67; col.17,

lines 1-5; discuses *a transaction context is passed to an activity*}; and

executing at least one event associated with the business activity within the

logical transaction context

{see figures 1-2 and 5, col. 9, lines 1-67, e.g. *during the operating of a*

transaction, if something goes wrong or there is a failure during the transaction's

execution, the transaction application can undo all the operations and the system can

cause the transaction's to be rolled back; and col. 17, lines 15-25 and lines 60-67, col.

18, lines 1-14, discuses *the work items performed within a set of activities are executed*

within a common transaction context};

Note: This appears to be a "data processing" method (see preamble limitation of

"computer implemented business process", therefore, the term *"logical"* in the "logical

transaction context" have been determined to be non-functional descriptive material

(NFDM), thus having no patentable weight and does not need to be taught by the prior

art. Nonfunctional descriptive material can not render nonobvious an invention that

would have other wise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ

401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the

substrate, the descriptive material will not distinguish the invention from the prior art in

terms of patentability. See MPEP 2106.01.

Note: As for the term "*to instantiate a business activity*", this is not a positively

recited method step but, rather as intended use of the previous step/function.

Regarding claim 2, LEYMANN ET AL discloses further comprising passing the

logical transaction context to the activity factory to generate an additional business

activity having the logical transaction context {see figure 5, col. 17, lines 15-25, col. 5,

lines 55-60; col. 17, lines 60-67, col. 18, lines 1-14}

Regarding claim 3, LEYMANN ET AL discloses wherein the first and second

business activities for an activity chain {see figure 5; col. 17, lines 15-25 and lines 44-

60; discloses set of activities}

Regarding claim 4, LEYMANN ET AL discloses wherein the logical transaction

context spans multiple transactions {see figure 5, col. 3, lines 21-22; col. 5, lines 55-60;

discloses *multiple transaction work items, or chained transaction*};

Regarding claim 5, LEYMANN ET AL discloses wherein executing the at least

one event associated with the business activity occurs on a serer {see abstract;

executes network of potentially distributed activities or events}

Regarding claim 6, LEYMANN ET AL disclose wherein the business activity

also takes an activity instance identifier {see col. 7, lines 59-67; transaction identifier to

an activity}

Regarding claim 7, LEYMANN ET AL disclose wherein the business activity is instantiated by an entity {see col. 12, lines 6-14; an activity represents a business action that is from a certain entity}

Regarding claim 8, LEYMANN ET AL disclose wherein the business activity is instantiated by a static process

Regarding claims 9-10, which deals with the business process e.g. dynamic, static, this is fairly taught in LEYMANN ET AL {see col. 49-58 e.g. dynamic process}

Regarding claim 10, LEYMANN ET AL disclose wherein a data structure for managing multiple physical transactions as a logical transaction, the data structure being embodied upon a computer-readable storage medium and including:

a first identifier relative to a logical group identification {see figure 2, col. 9, lines 48-67 e.g transaction identifier 203; *transaction manger 220}*

a second identifier relative to a logical transaction identification; and wherein the data structure is passable to an activity factory to generate business activities {see figure 2, col. 9, lines 48-67; col. 10, lines 1-30 see figure 2, e.g. *transaction manger 220, resource manager transaction 210};*

Response to Arguments

5.   Applicant's arguments filed 07/07/08 have been fully considered but they are not persuasive. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has amended the independent claim 10 to over come the 101 rejection. "*A data structure for managing multiple physical transactions as a logical transaction, the data structure <u>being embodied upon a computer-readable storage medium</u>*"; However, the " data structure" as recited in the claim limitation is not defined as "a physical or logical relationship among data elements, designed to support specific data manipulation functions". Therefore, the "data structure" in the claim is not statutory.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7.   The US Patent Application Publication to Goodman et al (US 2006/0059253) discloses business process flat form and the patent to Chessell et al. (6374283) discloses a client/server computing system which carries out business transaction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689